

<b>Notice of Allowability</b>	<b>Application N .</b>	<b>Applicant(s)</b>	
	10/005,457	WEAVER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen F. Gerrity	3721	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to *the Appeal Brief filed 14 October 2004*.

2.  The allowed claim(s) is/are 1-11, 13-26 and 28-32.

3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.

4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached

1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948).                               | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

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**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. The application has been amended as follows:

***In the title of the invention:***

Change the title to read as follows:

PACKAGING MACHINE

***In the specification:***

Page 2, paragraph [0005], line 7, delete "link" and insert  
--line--.

Page 12, paragraph [0050], line 6, delete "61" and insert  
--180--.

***In the claims:***

Claim 18, line 10, delete "." And insert --;--.

**EXAMINER'S AMENDMENT TO THE DRAWINGS AND COMMENT**

3. The following changes to the drawings have been approved by the examiner and agreed upon by applicant:

in figure 2D, the number "168" has been changed to --108--  
(see the attached marked-up copy of figure 2D).

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In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

4. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings filed 2 November 2001 are informal. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Election/Restrictions***

5. Claims 1 and 18 are allowable generic claims. As was stated in the election of species requirement, mailed 21 May 2003,

"Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141."

Accordingly, previously withdrawn claims 3, 7, 20 and 22, are no longer withdrawn from consideration since all of the claims depend from or otherwise include each of the limitations of an allowed generic claim. Claims 3, 7, 20 and 22 have been considered and examined.

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**REASONS FOR ALLOWANCE**

6. The following is an examiner's statement of reasons for allowance: the examiner has reviewed appellant's brief and the arguments contained therein; additionally, the examiner has reviewed the prior art. It is the opinion of the examiner that the subject matter of claims 1-11, 13-26 and 28-32 is not anticipated in the manner required by 35 USC 102 or unpatentable in the manner require by 35 USC 103. In particular, the combination of elements set forth in independent claim 1, especially the elements:

"a movable conveyor that is positioned to deliver the product to each of said plurality of lanes, said movable conveyor extends under one of said plurality of lanes;

"a conveyor shifting assembly that is adapted to move said movable conveyor from one of said plurality of lanes to an adjacent one of said plurality of lanes"

and the combination of elements set forth in independent claim 18, especially the elements:

"a moveable conveyor that is positioned to deliver the product to each of said plurality of lanes, said movable conveyor extends under one of said plurality of lanes;

"a conveyor shifting assembly, said conveyor shifting assembly that is adapted to move said movable conveyor from one of said plurality of lanes to an adjacent one of said plurality of lanes"

are not found in the prior art. The prior art references, particularly the Walter and Greenwell patents, do not disclose the above mentioned claimed subject matter. The conveyor in

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Walter extends under all of the lanes and the movable conveyor in Greenwell extends above the "lanes". Likewise, there is no reason to modify the Walter conveyor so that it maybe shifted. There is not found to be any motivation to modify the Walter conveyor in the manner necessary to meet the claimed limitations.

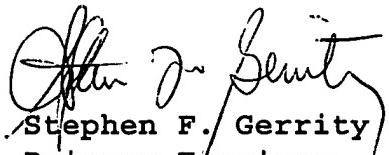
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### **Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gerry. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, may be contacted. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about

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the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Primary Examiner  
Art Unit 3721

Examiner's Telephone Number: 571-272-4460

Examiner's Work Schedule: Monday-Friday from 5:30 - 2:00

Supervisor's Telephone Number: 571-272-4467

Facsimile Telephone Number: 703-872-9306

TC 3700 General Information Telephone Number: 571-272-3700

21 December 2004